



# UNITED STATES PATENT AND TRADEMARK OFFICE

AN  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,217	12/05/2001	Peter Gaidarev	0104704-0008	8598
7590	12/23/2003			
			EXAMINER	
			MENDOZA, ROBERT J	
			ART UNIT	PAPER NUMBER
			3713	
			DATE MAILED: 12/23/2003	12

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/005,217	GAIDAREV ET AL.	
Examiner	Art Unit		
Robert J Mendoza	3713		11

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.  
2a)  This action is **FINAL**.                            2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-27 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-27 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 10 & 11. 6)  Other: \_\_\_\_ .

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al USPN (6,328,648).**

Regarding claims 1-15 and 27, Walker, in col. 3:58-67 and col. 4:1-67, discloses a system and method comprising based on a metric that represents a value of a game of chance, optimizing a payout distribution with respect to the metric wherein the metric represents quality of a player experience. Walker, in col. 4:1-67 and col. 5:1-67, discloses the metric evaluates payouts for successive plays of a game, a quality of experience for average players who receive more frequent payouts, a fraction of players experiencing payouts in a succession of plays. Walker, in col. 6:1-67 and col. 7:1-67, discloses the metric is chosen based on the mount risk and identity of games, payout distribution comprises a number of payout levels, frequency of payouts, levels of payouts, and optimizing includes simulating a number of plays. Walker, in col. 7:1-67, col. 8:1-67 and col. 9:1-67, discloses applying different termination rules for respective groups of players, at least one termination rule provides for termination when a player has reached a predefined number of plays with no payouts and the metric comprises aggregate payout among all of the players.

Regarding claims 16-26, Walker, in col. 7:1-67, col. 8:1-67, col. 9:1-67 and col. 10:25-67, discloses the metric comprises the aggregate number of plays of all of the players, frequency of payouts, optimizing includes generating simulations of player experiences, applies a genetic algorithm to the player experiences, based upon predefined constraints. Walker, in col. 7:1-67, col. 8:1-67, col. 9:1-67, col. 10:25-67, col. 11:1-33 and col. 12:1-62, discloses each of the simulations of player experiences is terminated after a number of plays and the number of plays based on the occurrence of a sequence of plays without payout, length of time elapsed during play and depletion of initial budget.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg, can be reached at (703) 308-1327. The USPTO official fax number is (703) 872-9306.

RM  
RM  
December 15, 2003

*Teresa Walberg*  
Teresa Walberg  
Supervisory Patent Examiner  
Group 3700